

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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Ex parte STEPHEN A. STOCKMAN,  
SERGE L. RUDAZ and MIRA S. MISRA

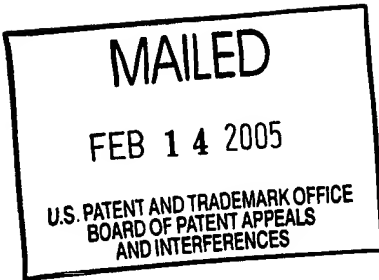
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Application No. 09/846,980

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ORDER RETURNING UNDOCKETED APPEAL

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This application was electronically received at the Board of Patent Appeals and Interferences on November 10, 2004. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith electronically returned to the examiner. The matters requiring attention prior to docketing are identified below.

A review of the application indicates that a Notice of Appeal and one month extension of time were filed on December 8, 2003 which requested that the Office "[p]lease charge the total amount of \$440.00 to our Deposit Account No. 502226." The Patent and Trademark Office records reflect that these fees have not been charged.

In addition, the Notice of Appeal filed December 8, 2003 and the Appeal Brief filed April 6, 2004 state that claims 1 and 3-60 are on appeal. The Examiner's Answer mailed June 21, 2004 states that the status of the claims is correct.

Section 1208(A)(10) of the Manual of Patent Examining Procedure (Eighth Edition, Rev. 2, May 2004) (MPEP) states:

(A) REQUIREMENTS FOR EXAMINER'S ANSWER.  
The examiner's answer is required to include, under appropriate headings, in the order indicated, the following items:

. . . .

(10) Grounds of Rejection. For each ground of rejection applicable to the appealed claims, an explanation of the ground of rejection, or reference to a final rejection or other single prior action for a clear exposition of the rejection.

The Examiner's Answer mailed June 21, 2004 does not comply with the above requirement since claims 6-11 and 36-41 were not included as part of any rejection. The Final Rejection lists the grounds of rejection as follows:

1. Claims 1, 3-5, 12-30, 31-35 and 42-60 are rejected under 35 U.S.C. 103(a). . . .;
2. Claims 6, 9, 11, 36, 39 and 41 are rejected under 35 U.S.C. 103(a). . . .;
3. Claim[s] 10 and 50 are rejected under 35 U.S.C. 103(a). . . .;

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4. Claim[s] 13 and 43 are rejected under 35 U.S.C. 103(a). . . ; and
5. Claim[s] 7-8 and 37-38 are rejected under 35 U.S.C. 103(a). . . .

It should be noted that the Final Rejection does not appear to discuss the rejection of claim 40.

Lastly, § 707.08 of the MPEP states:

707.08 Reviewing and Initialing by Assistant Examiner

The full surname of the examiner who prepares the Office action will, in all cases, be typed at the end of the action. . . .

After the action is typed, the examiner who prepared the action reviews it for correctness. The surname or initials of the examiner who prepared the action and the date on which the action was typed should appear below the action. If the examiner does not have the authority to sign the action, he or she should initial above the typed name or initials . . . .

The Examiner's Answer mailed June 21, 2004 is deficient in that there is no signature or initials for Matthew J. Song.

Correction is required.

Accordingly, it is

ORDERED that the application is returned to the

Examiner:

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1. for the \$330.00 Notice of Appeal Fee and \$110 one month extension of time fee to be charged to appellant's Deposit Account Number 502226;

2. for proper response to the "Grounds of Rejection" appearing on pages 3-6 of the Examiner's Answer mailed June 21, 2004 by including claims 6-11 and 36-41 in a rejection;

3. for taking corrective action regarding the signature or initials for Matthew J. Song;

4. for notification to appellants regarding the action taken; and

5. for such further action as may be appropriate:

BOARD OF PATENT APPEALS  
AND INTERFERENCES

By: 

DALE SHAW

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